

LISA M. HOYT,	)	
	)	
Claimant,	)	<b>IC 04-010964</b>
v.	)	
	)	
DOUG FREELAND, dba	)	<b>ORDER DENYING</b>
ACE DIVING,	)	<b>RECONSIDERATION</b>
	)	
Employer,	)	Filed Nov. 23, 2005
	)	
Defendant.	)	
	)	

The October 12, 2005 decision by the Commission found that Claimant was Defendant's employee at the time of the industrial accident, not an independent contractor, and that Defendant was liable for the related medical bills.

## ORDER DENYING RECONSIDERATION - 1

does not know how he is supposed to take care of this situation.

At hearing Defendant repeatedly referred to the diving equipment Claimant used on the date of the injury as “my equipment.” “And the only way I will – and it still wouldn’t go through my insurance company—is if you or her doctor can prove to me that what happened to her that day had anything to do with my equipment.” Tr., pp. 45-46. “So as far as the equipment goes, I would have to have somebody sit in a room like this and prove to me that my equipment caused this problem.” Tr., p. 48. “Andy and John still use the equipment today, work for me every day, and they work hard, long hours.” Tr., p. 49. By Defendant’s own testimony given at hearing, it was his equipment Claimant used on the day the accident took place. A letter received by the Commission from Defendant after the hearing, stating that Defendant did not own the equipment Claimant used, is not evidence that will be considered. Defendant had ample opportunity to present evidence and testimony at the hearing. Additionally, the Commission’s decision was based on a variety of factors. The fact that Claimant was using Defendant’s equipment was only one element evaluated by the Commission in finding that Claimant was an employee, not an independent contractor.

Defendant argues that he was never informed of any Dr. Barnes. Yet Defendant was allowed to review Claimant’s emergency room report at the hearing, he did not object to its admission, and Defendant attached a copy of the report to his reply brief. The emergency room report states the physician is David R Barnes, M.D., the attending doctor is Barnes, David R, and the report is signed by David R. Barnes, M.D. Defendant had many opportunities to become aware of Dr. Barnes, his role in this case, and the medical findings in the emergency room report.

Any questions Defendant may have concerning payment of medical bills should be directed to the Idaho Industrial Commission Benefits department at (208) 334-6000.

Based upon the foregoing reasons, Defendant's motion for reconsideration is DENIED.

IT IS SO ORDERED.

DATED this \_23 day of November, 2005.

INDUSTRIAL COMMISSION

\_\_\_\_/s/\_\_\_\_\_  
Thomas E. Limbaugh, Chairman

\_\_\_\_/s/\_\_\_\_\_  
James F. Kile, Commissioner

\_\_\_\_/s/\_\_\_\_\_  
R. D. Maynard, Commissioner

ATTEST:

\_\_\_\_/s/\_\_\_\_\_  
Assistant Commission Secretary

## **CERTIFICATE OF SERVICE**

I hereby certify that on \_23 day of November, 2005, a true and correct copy of the foregoing ORDER DENYING RECONSIDERATION was served by regular United States Mail upon each of the following:

LISA M HOYT  
P.O. Box 164  
Post Falls, ID 83877

DOUGLAS FREELAND  
ACE DIVING  
P.O. Box 840  
Spirit Lake, ID 83869

\_\_\_\_/s/\_\_\_\_\_